

EXHIBIT 3

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 -----X

5 IN RE: NATIONAL PRESCRIPTION MDL No. 2804
6 OPIATE LITIGATION,

Case No. 17-MD-2804

6 This document relates to:

7 All Cases Hon. Dan A. Polster

8 -----X

9
10 * * HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER * *

11 * * CONFIDENTIALITY REVIEW * *

12 VIDEOTAPED DEPOSITION

13 OF

14 THOMAS P. NAPOLI

15 New York, New York

16 Thursday, January 17, 2019

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Reported by:

23 ANNETTE ARLEQUIN, CCR, RPR, CRR, RSA

24

1 January 17, 2019

2 9:06 a.m.

3

4 Videotaped deposition of PURDUE PHARMA,

5 through its representative, THOMAS P.

6 NAPOLI, held at the offices of LIEFF

7 CABRASER HEIMANN & BERNSTEIN LLP, 250

8 Hudson Street, New York, New York, pursuant

9 to Notice, before Annette Arlequin, a

10 Certified Court Reporter, a Registered

11 Professional Reporter, a Realtime Systems

12 Administrator, a Certified Realtime

13 Reporter, and a Notary Public of the State

14 of New York and New Jersey.

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19 ALSO PRESENT:

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21 ERIK DAVIDSON, Videographer

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23

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1 required to release a pending order that is under
2 review, affecting customer service/fill rate
3 levels."

4 Do you see that there?

5 A. I do.

6 Q. Did you write that?

7 A. Yes, I did.

8 Q. At the time that you wrote it, did
9 you believe what you wrote there?

10 MR. LUXTON: Objection to form.

11 A. Yup, I do believe that those facts
12 are accurate. We did have -- we did have a
13 compliance system, but we wanted to enhance our
14 compliance to ensure that we were always
15 continually evolving it on the high ground.

16 Q. So above there you write, under
17 background, "The SOM" -- "The SOM automation
18 project initially commenced in 2011 with the
19 primary goal of replacing our, quote, threshold,
20 unquote, based system with the CFR compliant
21 model developed by Cegedim. This project was
22 initiated in an effort to ensure compliance with
23 the Code of Federal Regulations, SOM
24 requirements, controlled substances, 21 CFR

1 1301.74 b, as well as December 2007, DEA
2 memory."

3 Do you see that?

4 A. I did.

5 Q. When you wrote that in February 2015,
6 did you believe that to be true?

7 A. I did believe that Buzzeo had a
8 system that they were proposing that was
9 compliant with the CFR

10 We also had one as well, but we
11 wanted to move up to a more enhanced
12 sophisticated system.

13 Q. So other parts of the -- this memo
14 talk about a suspicious order monitor --
15 suspicious order monitor statistical model that
16 will be hosted, quote, in the cloud and based on
17 Actavis's order data.

18 A. Yes.

19 Q. Do you remember whether this
20 cloud-based SOM statistical model was ever
21 adopted at Actavis?

22 A. This system was created. We used it
23 in a test environment. We're happy with it. We
24 were subsequently acquired by Teva and it was

1 put on hold and I don't believe that Teva chose
2 to utilize it.

3 Q. All right. So with regard to the --
4 this is -- so with regard to your
5 understanding -- well, with regard to your
6 understanding, Actavis never implemented the
7 cloud-based system that's discussed in this
8 memo; is that right?

9 A. That's correct. When Teva acquired
10 Actavis around this time frame they already had
11 their own program in place for Suspicious Order
12 Monitoring.

13 Q. So this goes to the number of
14 corporate transactions that took place --

15 A. Right, right.

16 Q. You're describing the company as
17 being bought by Teva. Part of what was Actavis,
18 was purchased and closed on by Allergan.

19 Do you have an understanding of that
20 as well or some type of transaction occurred
21 between Allergan and Actavis; is that right?

22 A. Right.

23 Q. Either Actavis bought Allergan or
24 Allergan bought Actavis?

1 A. Actavis bought Allergan.

2 Q. All right. And as far as you're
3 concerned -- well, during that process, when did
4 you leave?

5 A. I left around maybe October of 2016.
6 Sometime in the early fall of 2016.

7 Q. So I'm going to hand you what we will
8 mark as Exhibit 26.

9 A. Okay.

10 (Napoli Exhibit 26, Email chain
11 beginning with email dated 1/11/16 from
12 Baran to Russo with attachment,
13 Bates-stamped ALLERGAN_MDL_ 03431731
14 through 1739, marked for identification, as
15 of this date.)

16 BY MR. EGLER:

17 Q. Before we get to Exhibit 26, why did
18 you leave?

19 A. I was laid off.

20 Q. All right.

21 A. Because Teva already had a DEA
22 compliance staff and program. I helped them
23 orient them with -- with our side of the
24 business and was part of a reduction in force.

1 Q. All right. So looking at what I
2 marked as Exhibit 26, can you page through it.
3 I'll read into the record. It's
4 ALLERGAN_MDL_03431731 through 1739.

5 If you look through this generally,
6 but I'm just going to ask you a few questions
7 about this.

8 (Document review.)

9 Q. Now I'll note for the record that the
10 last email that you're on the page appears on
11 the third page of this document, as I read it.

12 A. Um-hmm.

13 (Document review.)

14 A. Okay.

15 Q. All right. Based on the emails that
16 are here, do you remember around August 2015
17 Actavis deciding to sell to Bell Medical again?

18 MR. KNAPP: Objection to form.

19 A. I do recall this series of emails and
20 this situation.

21 Q. All right. Did you have any input in
22 the decision whether to start selling controlled
23 substances to Bell Medical around this time?

24 A. My input would have been from a DEA